

REMARKS

Claims 1-9 and 21 were pending and have been allowed.

Objection to Drawings

The Drawings were objected to as not showing every feature of the invention specified in the claims (see 37 CFR 1.83a). More specifically, the Examiner indicated that although the element, "a common glass substrate," is shown in the drawings, the element "a common substrate," is not shown.

Applicants traverse the objections and submit that the elements are shown in drawings.

First, as indicated in MPEP 608.02, the drawings illustrate the specification, but there is no regulation or law that requires the drawings to identify specific materials used in construction of the embodiment shown if the materials are not an "important feature of the invention".

Moreover, the specification describes "a common glass substrate," which is shown as elements 201 and 301 in the drawings. This is a shortening of the phrase "a common substrate formed from glass." This is not to say that glass is the only material that the common substrate can be formed from (e.g. quartz, sapphire, plastic, semiconductor to give a few examples). This is to say that the common glass substrate is only one type of common substrate used for the fabrication methods recited in the claims. Applicants have recognized by the recitation in the claims of a common substrate rather than a common substrate formed from glass. Further, nothing in the specification limits the common substrate as being limited exclusively to glass. Thus, although a common substrate formed from glass may be one of embodiment of the invention, it is not the only embodiment.

Applicants note that this is in accordance with decisions by the Federal circuit and indicated in the MPEP. For example, in Altiris, the CAFC stated, "[c]laims are not necessarily and not usually limited in scope simply to the preferred embodiment." See Altiris, Inc. v. Symantec Corp., 318 F.3d 1363, 1370, 65 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2003) (holding that the district court improperly read limitations from the specification into the claims). MPEP 904.01 indicates that "[t]he breadth of the claims in the application should always be carefully noted; that is, the examiner should be fully aware of what the claims do *not* call for, as well as what they do

require. During patent examination, the claims are given the broadest reasonable interpretation consistent with the specification.” See *In re Morris*, 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997).

Further guidelines are given in MPEP 2111, which indicates how the claims are to be construed and gives various cases (which are presented here in part):

“See, e.g., *Liebel-Flarsheim Co. v. Medrad Inc.*, 358 F.3d 898, 906, 69 USPQ2d 1801, 1807 (Fed. Cir. 2004)(discussing recent cases wherein the court expressly rejected the contention that if a patent describes only a single embodiment, the claims of the patent must be construed as being limited to that embodiment).< It is only when the specification provides definitions for terms appearing in the claims that the specification can be used in interpreting claim language. *In re Vogel*, 422 F.2d 438, 441, 164 USPQ 619, 622 (CCPA 1970). >See also *Superguide Corp. v. DirecTV Enterprises, Inc.*, 358 F.3d 870, 875, 69 USPQ2d 1865, 1868 (Fed. Cir. 2004) (“Though understanding the claim language may be aided by explanations contained in the written description, it is important not to import into a claim limitations that are not part of the claim. For example, a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.”); *E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (“Interpretation of descriptive statements in a patent’s written description is a difficult task, as an inherent tension exists as to whether a statement is a clear lexicographic definition or a description of a preferred embodiment. The problem is to interpret claims ‘in view of the specification’ without unnecessarily importing limitations from the specification into the claims.”); *Altiris Inc. v. Symantec Corp.*, 318 F.3d 1363, 1371, 65 USPQ2d 1865, 1869-70 (Fed. Cir. 2003) (Although the specification discussed only a single embodiment, the court held that it was improper to read a specific order of steps into method claims where, as a matter of logic or grammar, the language of the method claims did not impose a specific order on the performance of the method steps, and the specification did not directly or implicitly require a particular order).”

In summary, there is no requirement for the claims to be limited to what has been disclosed. As such it is common practice for a claim to be broader than the embodiment described in the specification, as Applicants have done in the instant application.

In addition, an original claim element is self supporting. As such, if the Examiner insists, the broader description can be introduced into the text of the specification without being new matter. Thus, should the Examiner continue to object to either the specification or the claims, Applicants authorize the Examiner to amend paragraph [31] by adding after the first appearance of the number 201 in the paragraph the phrase, "(a common substrate that is formed from glass)".

In addition, the Examiner states on page 2 of the Office Action, "In claim 7, change "the same masks" to --the same multi-masks--". Applicants submit that such a change is unnecessary. The term "multi-masks" does not appear in the specification (and Applicants are unsure what a "multi-mask" is).

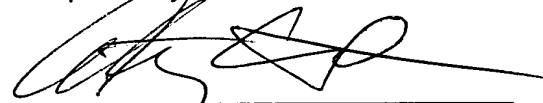
Claim 7 recites a fabrication method in which switching devices for each of a plurality of switching array substrates are fabricated through a multiple-mask process that applies the same masks for each switching array substrate. That is, switching devices for each of a plurality of switching array substrates are fabricated through a multiple processes. Each of the processes recited uses a mask. For each process, the same mask is used for each switching array substrate. An example of one of the preferred embodiments for the mask of one of these processes (shown in Fig. 3C) is shown in Fig. 4.

Accordingly, as Claim 7 is clear, Applicants traverse this requirement.

Conclusion

If the Examiner is unable to allow the application in the next Office Action and believes that a telephone interview would be helpful to resolve any issues, he is respectfully requested to contact the undersigned.

Respectfully submitted,



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